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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

GILA RIVER INDIAN COMMUNITY,
et al.,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA,
et al.,

Defendants,

TOHONO O'ODHAM NATION,

Intervening Defendant.

Case No. CV10-1993-PHX DGC

Case No. CV10-2017-PHX DGC
(consolidated action)

Case No. CV10-2138-PHX DGC
(consolidated action)

**ARIZONA GOVERNOR JANICE
K. BREWER'S MOTION FOR
LEAVE TO FILE BRIEF
AMICUS CURIAE IN SUPPORT
OF CITY OF GLENDALE**

MOTION FOR LEAVE TO FILE BRIEF *AMICUS CURIAE*

Arizona Governor Janice K. Brewer respectfully seeks leave to file the attached brief *amicus curiae* in support of the City of Glendale in the above-captioned case.

“Although there is no rule governing the appearance of an *amicus curiae* in the United States District Courts,” those courts generally have concluded that Rule 29 of the Federal Rules of Appellate Procedure “provides guidance” as to when leave to file *amicus* briefs should be granted. *United States v. Alkaabi*, 223 F. Supp.2d 583, 592 (D.N.J. 2002). Rule 29, in turn, instructs the Court to consider “(1) the movant’s interest; and (2) the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case.” Fed. R. App. P. 29(b). *Amici* thus are granted leave to file where they disclose “a sufficient ‘interest’ in the case” and their brief is helpful and relevant to the matters at issue. *Neonatology Associates, P.A. v. C.I.R.*, 293 F.3d 128, 129 (3d Cir. 2002) (quoting Rule 29(b)); *accord Wilderness Society v. U.S. Bureau of Land Mgmt.*, No. 09-CV-08010, 2010 WL 2594853, *2 (D. Ariz. June 21, 2010) (“The role of an amicus is to provide assistance in matters of general interest and that bring light to legal considerations that the Court would otherwise not have considered.”). Governor Brewer’s proposed brief meets that standard.

1. *Interests of Amicus.* Governor Brewer possesses an ample interest in this case. As chief executive of Arizona, the Governor has the responsibility to safeguard the State’s territorial integrity and its prerogative to assert sovereign control over all of its lands. That integrity and control will be undermined if the federal government is permitted to do what it seeks to do here: create an Indian reservation on State land—and

accordingly strip from the State many incidents of sovereignty over that land—without State consent and over the State’s continuing objections. Moreover, Governor Brewer has a separate interest because the case involves the Tohono O’odham Nation’s proposal to build a massive casino in the middle of Arizona’s largest metropolitan area.

As explained in the proposed brief, this casino plan violates an agreement reached between the State and Arizona’s Indian tribes in 2002 that was understood to forbid new casinos in the Phoenix metropolitan area for decades to come. That agreement was consistent with the ballot proposition regarding Indian gaming passed by Arizona voters in 2002. Governor Brewer has an abiding interest in ensuring that federal law is not interpreted to authorize an Indian tribe to disregard such a carefully crafted agreement, to thwart the expressed desire of Arizona’s citizens, create a satellite reservation far from its population base, and use it to game near the center of the State’s largest metropolitan area, all without community consultation. Such an interpretation of federal law would have grievous implications for relations between tribes and the broader community, both in Arizona and across the nation.

2. *Helpfulness of Proposed Brief.* Governor Brewer’s proposed brief likewise will be helpful to the Court in resolving the legal issues presented. As an initial matter, the Governor’s proposed brief expresses her opposition to the proposed trust acquisition and her concern that it would infringe on Arizona’s sovereign integrity. These are relevant factors in analyzing the City of Glendale’s argument that the proposed acquisition violates the Tenth Amendment to the United States Constitution. The

proposed brief likewise expresses the Governor's agreement with other legal claims advanced by the plaintiffs. And the brief sheds light on the factual background surrounding the Tohono O'odham Nation's commitment to Arizona voters that by approving Proposition 202—the 2002 compromise mentioned above—they were ensuring that new casinos would not spring up in the Phoenix metropolitan area.

For all of these reasons, Governor Brewer respectfully asks that her motion for leave to file the attached brief *amicus curiae* be granted.

Respectfully submitted,

/s/ Joseph Kanefield

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**[PROPOSED] ORDER
GRANTING ARIZONA
GOVERNOR JANICE K.
BREWER'S MOTION FOR
LEAVE TO FILE BRIEF
AMICUS CURIAE IN SUPPORT
OF CITY OF GLENDALE**

Arizona Governor Janice K. Brewer has filed a motion for leave to file a brief *amicus curiae* in support of the City of Glendale's motions for summary judgment. Governor Brewer's proposed brief was lodged with the Court at the time she filed the pending motion.

The Court finds that Governor Brewer has shown the requisite interest in the matters at issue in this case, that her *amicus* brief will be helpful to the Court, and that the matters asserted therein are relevant to the outcome of plaintiffs' motions. Accordingly,

IT IS HEREBY ORDERED that Governor Brewer's motion is GRANTED. The proposed *amicus* brief lodged with the Court is deemed filed.

Hon. David G. Campbell

CERTIFICATE OF SERVICE

I hereby certify that on December 3, 2010, I electronically transmitted the attached Motion for Leave to File Brief *Amicus Curiae* to the Clerk's Office using the CM/ECF system for filing and service to counsel of record in these consolidated proceedings.

/s/ Joseph Kanefield

Joseph Kanefield